

SEP 08 2015

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

JULIA C. HANLEY, CLERK
BY:  DEPUTY CLERK

UNITED STATES OF AMERICA,) CASE NO. 1:04CR00067
) (CASE NO. 1:15CV80842)
)
v.) MEMORANDUM OPINION
)
)
CECIL EDWARD WAMPLER, JR.,) By: Hon. Glen E. Conrad
) Chief United States District Judge
Defendant.)

Cecil Edward Wampler, Jr., a federal inmate proceeding pro se, filed this motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255. Pursuant to Standing Order 2015-5 and the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1) and (c), the Office of the Federal Public Defender for the Western District of Virginia has been appointed to consult with defendant to determine whether defendant may qualify for federal habeas relief in light of Johnson v. United States, __ U.S. __, 135 S. Ct. 2551 (June 26, 2015). Upon review of the motion and court records, however, the court concludes that the current § 2255 motion must be summarily dismissed without prejudice as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). Court records indicate that Wampler previously filed § 2255 motions concerning this same conviction and sentence. See, e.g., United States v. Wampler, Case No. 1:08CV800020, 2008 WL 565108 (W.D. Va. February 29, 2008) (dismissing § 2255 motion as untimely), appeal dismissed, 296 F. App'x 354 (4th Cir. Oct 20, 2008). As Wampler offers no indication that he has yet obtained certification from the court of

appeals to file a second or successive § 2255 motion, the court must dismiss his current action without prejudice. A separate order will be entered this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to defendant. Defendant is also advised that if he wishes to seek assistance concerning the appropriate legal remedy by which he may pursue any claim available to him under the Johnson decision, he may contact the Office of the Federal Public Defender, 210 1st Street Southwest #400, Roanoke, VA 24011.

ENTER: This 8th day of September, 2015.



Chief United States District Judge